

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

JASON FRAZIER, *et al.*,

Plaintiff,

v.

Civil Action No.: 1:24-03819-SCJ

**FULTON COUNTY DEPARTMENT
OF REGISTRATION AND
ELECTIONS, *et al.*,**

Defendants.

PLAINTIFFS' REQUEST FOR JUDICIAL NOTICE

Pursuant to Rule 201 of the Federal Rules of Evidence and for the purposes of the ongoing Rule Nisi hearing, Plaintiffs respectfully request that this Court take judicial notice of the following facts and matter in support of their request for a Rule Nisi order:

1. Excerpt contained in Item No. 23-0839 of the Fulton County Board of Commissioners Recess Meeting Agenda dated November 15, 2023 (the "Agenda"), concerning the FCDRE's admission that "Fulton County never does an independent search for anybody: dead people, felons, people who live out-of-state", attached hereto as Exhibit 1; and
2. The FCDRE's Notice of Hearing addressed to Jason Frazier, dated August 20, 2024. *See* Exhibits 2-3.

AUTHORITY IN SUPPORT OF REQUEST FOR JUDICIAL NOTICE

Rule 201 of the Federal Rules of Evidence permits this Court to “judicially notice a fact that is not subject to reasonable dispute because it either is generally known within the trial court's territorial jurisdiction or [the fact] can be accurately and readily determined from sources whose accuracy cannot reasonably be questioned.” Fed. R. Evid. 201(b). *Bryant v. Ford*, 967 F.3d 1272 (11th Cir. 2020) (citing Fed. R. Evid. 201(b)) (internal quotations omitted). This permissive function becomes mandatory and “the court must take judicial notice if a party requests it and the court is supplied with the necessary information.” *Lodge v. Kondaur Capital Corp.*, 750 F.3d 1263, 1273 (11th Cir. 2014).

Request No. 1 asks that this Court judicially notice Item No. 23-0839 of the Agenda because it contains a relevant fact alleged in the complaint—namely, the statement FCDRE made that admits “Fulton County never does an independent search for anybody: dead people, felons, people who live out-of-state.” This statement is contained in a public record, and “the accuracy and authenticity [of public records] are not subject to reasonable dispute” and public records “are capable of accurate and ready determination by resort to sources whose accuracy could not reasonably be questioned.” Fed. R. Evid. 201(b); *see* O.G.C.A. § 32-9-15; *see also* *Horne v. Potter*, 392 F. App'x 800, 802 (11th Cir. 2010) (citing Fed. R. Evid. 201(b));

see also Universal Express, Inc. v. U.S. S.E.C., 177 F. App'x 52, 53 (11th Cir. 2006) (per curiam) (citing *Stahl v. U.S. Dep't of Agric.*, 327 F.3d 697, 700 (8th Cir. 2003)).

In addition to the admission constituting a public record, the FCDRE's admission is also further proven to be accurate and authentic as evidenced by the fact that the FCDRE's admission is included in the November 15, 2023 BOC hearing is (1) posted on the Fulton County government website and the Fulton Government Television YouTube channel, and timely memorialized as evidenced by Plaintiff Frazier's November 15, 2023 social media post that contains the aforesaid admission.

Request No. 2 asks that this Court to judicially notice the fact that the Notice of Hearing was not sent to Plaintiff via USPS First-Class Mail until August 20, 2024 because it is a fact not subject to reasonable dispute and this fact is capable of accurate and ready determination. Fed. R. Evid. 201 This is evidenced by not only the declaration authenticating the letter and the e-mail referenced in paragraph 27 of the Complaint, but also as evidenced by the physical letter and envelope in which it was sent.¹ Fed. R. Evid. 201(b).

Accordingly, and for the foregoing reasons, Plaintiffs respectfully ask that this Court take judicial notice of the FCDRE admission contained in the Fulton County

¹ Plaintiff Jason Frazier will be present at the Rule Nisi hearing and in addition to the declaration authenticating the letter and envelope, Mr. Frazier will present copies of the same at the hearing.

public record and the August 20, 2024 date on which the notice of hearing was finally sent via USPS First-Class Mail.

Dated: September 12, 2024

Respectfully submitted,

/s/ Jordan Johnson

Jordan Johnson
Georgia State Bar No. 673643
BERNARD & JOHNSON, LLC
5 Dunwoody Park, Suite 100
Atlanta, GA 30338
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/s/ Nicole C. Pearson

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nicole@citizenag.org
**pro hac vice* pending

Counsel for Plaintiffs

CERTIFICATE OF COMPLIANCE

I hereby certify that the foregoing has been prepared in accordance with the font type and margin requirements of LR 5.1, N.D. Ga., using font types of Times New Roman, point size of 14, and Century Schoolbook, point size of 13.

Dated: September 12, 2024

/s/ Jordan Johnson
Jordan Johnson

Counsel for Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that on September 12, 2024, a true copy of the foregoing was filed and served via the Court's CM/ECF and/or NextGen electronic filing system upon all parties and counsel of record.

Dated: September 12, 2024

/s/ Jordan Johnson
Jordan Johnson

Counsel for Plaintiffs

EXHIBIT 1

Due to the nature of this exhibit being in video format, Agenda Item No. 23-0839 is available for review via the link below:

https://fulton.granicus.com/player/clip/312?view_id=2&redirect=true

EXHIBIT 2

Declaration of Jason Frazier in Support of Request for Judicial Notice

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

JASON FRAZIER, *et al.*,

Plaintiff,

v.

**FULTON COUNTY DEPARTMENT OF
REGISTRATION AND ELECTIONS, *et al.*,**

Defendants.

Civil Action No.: 1:24-cv-03819-SCJ

**DECLARATION OF JASON FRAZIER TO AUTHENTICATE
AN OFFICIAL GOVERNMENT STATEMENT OR DOCUMENT**

I, JASON FRAZIER, declare as follows:

1. I am an adult resident of Fulton County, Georgia and competent to render this declaration.
2. I make this declaration based on my own personal knowledge.
3. If called as a witness, I could and would testify competently and under penalty of perjury as to all statements included in this Declaration.
4. I am the Plaintiff in the above-captioned action.

I. Fulton County's On-Record Admission Video Footage

5. On November 15, 2023, the Fulton County Board of Commissioners held a hearing.
6. I personally watched this hearing via the County's live stream video feed that was made available to the public.
7. During the November 15th hearing, Fulton County's Chairperson for the Department of Registration and Elections made the following on-record admission:

Fulton County never does an independent search for anybody. Dead people, felons, people who live out-of-state.¹

¹ See Compl., pp. 1-2. ¶¶ 14, 22, 33-35, 68-71, 77-79, 140 (ECF No. 1) (emphasis added).

Affidavit of Jason Frazier

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8. I personally heard and listened to the FCDRE make this admission, as evidenced by the memorialization of the testimony.

9. I also contemporaneously memorialized this admission that same day by posting a true and accurate recording of FCDRE's admission on my "X" (formerly, "Twitter") social media account. See <https://x.com/JasonFrazierUSA/status/1724986726207181091>.

10. The Fulton County official transcript record of the Board of Commissioners hearing contains the FCDRE's aforesaid admission, verbatim, and as phrased and written above.

11. The Fulton County YouTube channel, Fulton Government Television, also contains a video the FCDRE's aforesaid admission, verbatim, and as phrased and written above.

II. Fulton County's E-Mail and Documents Regarding the Notice of Hearing

12. On August 20, 2024, I received an e-mail from Fulton County's attorney confirming that Defendant Kathryn Glenn never sent me the statutorily-compliant notice of hearing that is mandatory pursuant to O.C.G.A. § 21-2-229(b).

13. Specifically, on August 20, 2024 at 9:30 a.m., Fulton County's attorney Ann S. Brumbaugh, advised me directly—as evidenced by my email address being contained in the "To" addressee portion of the email—that "[p]er O.C.G.A. 21-2-229(b), the notice must be sent by first class mail." See Compl. ¶ 28.

14. I have read the pre-hearing brief submitted by Fulton County as well as the accompanying statement of Kathryn Glenn and I am familiar with its contents.

15. In her statement—not to be construed as a declaration or affidavit—Defendant Glenn falsely states that a "notice was sent to Jason Frazier] within ten (10) business days as required under O.G.C.A. § 21-2-229(b)."

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16. I personally know that notice was **not** sent to me within ten (10) business days as required under O.G.C.A. § 21-2-229(b) because the notice is dated August 20, 2024 and was contained inside an envelope with a stamp that was also printed on August 20, 2024.

17. A true and accurate copy of the notice dated August 20, 2024 is attached hereto as **Exhibit 1**.

18. A true and accurate copy of the envelope with a stamp print-date of August 20, 2024 is attached hereto as **Exhibit 2**.

19. I also personally know this statement is false because of the email from Ms. Brumbaugh who advised that an email informing me of a hearing does not satisfy the requirement that I receive a notice of hearing “within ten (10) business days as required under O.G.C.A. § 21-2-229(b).”

20. A true and accurate copy of the e-mail dated August 20, 2024 and addressed to me is attached hereto as **Exhibit 3**.

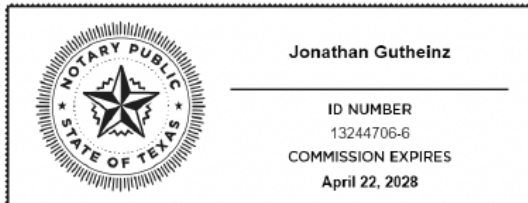
I declare under the penalty of perjury under the laws of the United States of America that the foregoing is true and correct to the best of my knowledge, information, and belief.

Dated: September 11, 2024



JASON FRAZIER

Sworn to and subscribed before me this 11th day of September, 2024.



(seal)



Notary Public
Jonathan Gutheinz

Notary Name (printed)

My commission expires: 04/22/2028

Electronically signed and notarized online using the Proof platform.

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EXHIBIT

1



FULTON COUNTY DEPARTMENT OF REGISTRATION AND ELECTIONS
5600 CAMPBELLTON FAIRBURN ROAD
UNION CITY, GA 30213
404-612-3816

August 20, 2024

Mr. Jason Frazier
485 Hardscrabble Rd.
Roswell, GA 30075

Dear Mr. Frazier,

Please accept this letter as notice of a hearing by the Fulton County Board of Registration and Elections to hear your challenge of:

Mr. John Jacob Schickel
77 E Andres Dr. SW Unit 3110
Atlanta, GA 30305

Hearing is scheduled for August 29, 2024 @ 11:00am
5600 Campbellton Fairburn Rd.
Union City, GA 30213

As you may be aware the Fulton County BRE adopted new procedures for voter challenges at the June 13, 2024, BRE meeting. Your challenge to the following voters:

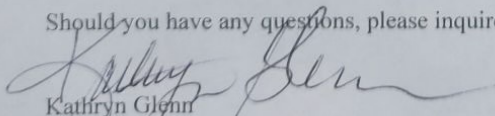
Eddy Juan Suriel, Jr.
John R. Exley IV
Joseph Allan Blount
Charles Eugene Purcell III

has been denied based upon the following:

(h) Challenges to Inactive Voters. Once a challenge is received, the Elections Staff shall determine whether the challenged voter is currently on the list of active voters. If the voter is not located on the active rolls, the BRE shall reject the challenge and so inform the challenger. OCGA 21-2-235(b); NVRA, 52 U.S. Code § 20507(d)(1).

2. Procedures for Particular Challenges

Should you have any questions, please inquire.


Kathryn Glenn
Registration Manager

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EXHIBIT

2



Zoomed-in photograph of the stamp on the above-depicted envelope reflecting "08/20/2024"

Affidavit of Jason Frazier
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EXHIBIT

3

From: Ann S. Brumbaugh <ab@annbrumbaughlaw.com>
Sent: Tuesday, August 20, 2024 9:30 AM
To: Glenn, Kathryn <Kathryn.Glenn@fultoncountyga.gov>; jasonfrazierusa@yahoo.com
Cc: Williams, Nadine <Nadine.Williams@fultoncountyga.gov>; Eskridge, Patrick
<Patrick.Eskridge@fultoncountyga.gov>; Bodison, Mariska <Mariska.Bodison@fultoncountyga.gov>; Allen, Sherri <Sherri.Allen@fultoncountyga.gov>; Alexis, Chad
<Chad.Alexis@fultoncountyga.gov>
Subject: Re: Residency Challenge 8/4/2024

Per O.C.G.A. 21-2-229(b), the notice must be sent by first class mail.

As a rule of thumb, you should assume that email is never proper notice in legal proceedings. It is fine to send an email, but it must always be followed up with a mailed notice.

Law Office of Ann S. Brumbaugh LLC
The High House
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Decatur, GA 30030
404-593-8295 (cell)
Annbrumbaughlaw.com